



COUNCIL – 13TH JUNE 2017

SUBJECT: INTERNAL INVESTIGATION OF SENIOR OFFICERS – ADDITIONAL FINANCIAL PROVISION

REPORT BY: ACTING DIRECTOR OF CORPORATE SERVICES & SECTION 151 OFFICER

1. PURPOSE OF REPORT

- 1.1 To seek Council approval of additional financial provisions in relation to the ongoing internal investigation of three Senior Officers.

2. SUMMARY

- 2.1 The report sets out the need for further financial provisions to ensure that sufficient funding is set aside to meet costs associated with the ongoing internal investigation of three Senior Officers.

3. LINKS TO STRATEGY

- 3.1 As a part of prudent financial management the Council is required to set aside funding to meet its liabilities.

4. THE REPORT

- 4.1 Members will be aware of the current interim arrangements in place within the Authority arising from the ongoing internal investigation of three Senior Officers.
- 4.2 There are revenue budgets established for the posts of Chief Executive, Director of Corporate Services and Head of Legal Services/Monitoring Officer and the postholders currently fulfilling these duties on an interim basis are funded from these revenue budgets.
- 4.3 Members will recall that the additional costs associated with the three Senior Officers have been funded from a provision established using General Fund reserves as approved by Council. At its meeting on the 7th March 2017, Council approved a further financial provision of £123k funded from General Fund balances to cover the salary costs of the three Senior Officers for the period 1st April 2017 to the 30th June 2017.
- 4.4 Members will also recall that an Investigating & Disciplinary Committee was established in 2013 and an independent investigator was engaged from Blake Morgan LLP. However, this independent investigation was put on hold at the request of the police due to the ongoing Criminal Proceedings at that time.

- 4.5 Members will be aware that the Criminal Proceedings against the three Senior Officers were dismissed in October 2015 and the Authority is now progressing internal investigations in accordance with the Council's approved procedures and statutory requirements.
- 4.6 These procedures must be conducted fairly and thoroughly in accordance with the statutory process over which we have no discretion. It is therefore now necessary to review the current financial provision to ensure that sufficient additional funding is set aside to meet the salary costs of the three Senior Officers during the ongoing investigation process.
- 4.7 At its meeting on the 10th March 2017, the Investigating and Disciplinary Committee resolved that there were allegations that required formal investigation and that the matter be referred to a Designated Independent Person to undertake a comprehensive investigation in accordance with the Disciplinary Proceedings for Statutory Officers.
- 4.8 External Legal Advisers who have been involved in such processes previously have suggested that the process will take at least 100 days. Typically, the cost of undertaking such an investigation is £1000 per day so it is recommended that a financial provision of £100k should be set aside to meet the cost of the Designated Independent Person and that this should be funded from General Fund balances.
- 4.9 Given the estimate of 100 days for the Designated Independent Person to undertake the formal investigation it is unlikely that matters will be concluded until at least the end of the calendar year. It will therefore be necessary to establish a further financial provision of £241k funded from General Fund balances to cover the salary costs of the three Senior Officers for the period 1st July 2017 to the 31st December 2017. In the event that the investigation process is concluded earlier then the balance on the financial provision will be returned to General Fund balances.
- 4.10 In addition to the salary costs of the three Senior Officers, legal costs are also being incurred as part of the ongoing investigation. Due to the specialist nature of the investigation process, and as one of the three Senior Officers is the Head of Legal Services & Monitoring Officer, it is clearly not possible for anyone from the Council's own Legal Team to provide the advice and support that would normally be provided. Consequently, the services of external legal advisers have been required.
- 4.11 At its meeting on the 7th March 2017, Council also agreed a further financial provision of £140k to meet the estimated legal costs of the ongoing internal investigation to the 30th June 2017. Based on an assessment of actual legal costs incurred to date, the balance available on the financial provision previously agreed, and likely requirements moving forward it is recommended that a further financial provision of £128k will be required to meet anticipated legal costs to the end of December 2017. Again, it is recommended that this should be funded from General Fund balances with any balance on the funding being returned to the General Fund if matters are concluded earlier than currently anticipated.
- 4.12 The financial provision for the salaries of the three Senior Officers and for legal costs will need to be reviewed again in December 2017 if the investigation process has not been concluded at that time. Furthermore, if actual legal costs are higher than currently anticipated then an earlier report to Council will be required.

5. EQUALITIES IMPLICATIONS

- 5.1 No equality impact assessment has been undertaken on this report as it essentially seeks approval for an extension of financial arrangements previously agreed.

6. FINANCIAL IMPLICATIONS

- 6.1 It is proposed that the additional financial provisions in this report totalling £469k should be funded from General Fund balances.
- 6.2 Members will recall that the Section 151 Officer has recommended in previous reports to Council that the minimum balance on the General Fund reserve should be £10m i.e. circa 3% of the Council's net revenue budget. The proposed additional provision of £469k in this report can be funded from the General Fund reserve without compromising the recommended minimum balance of £10m.

7. PERSONNEL IMPLICATIONS

- 7.1 The personnel implications are included in the report.

8. CONSULTATIONS

- 8.1 All consultation responses are included in the report.

9. RECOMMENDATIONS

- 9.1 It is recommended that Council:-
- 9.1.1 Approves a financial provision of £100k from General Fund balances to meet the anticipated cost of a Designated Independent Person.
- 9.1.2 Approves a further financial provision of £241k to be funded from General Fund balances to cover the potential salary costs of the three Senior Officers for the period 1st July 2017 to the 31st December 2017.
- 9.1.3 Approves an additional financial provision from General Fund balances of £128k to meet anticipated legal costs to the 31st December 2017.

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 To ensure that sufficient funding is set aside to meet the potential costs of the ongoing investigation process should matters not be concluded by the 31st December 2017.

11. STATUTORY POWER

- 11.1 Local Government Acts 1972 and 2000.

Local Authorities (Standing Orders) (Wales) Regulations 2006.

Local Government and Housing Act 1989.

Author: Stephen Harris, Interim Head of Corporate Finance
E-mail: harrisr@caerphilly.gov.uk Tel: 01443 863022

Consultees: Chris Burns, Interim Chief Executive
Dave Street, Corporate Director, Social Services
Nicole Scammell, Acting Director of Corporate Services & S151 Officer
Lynne Donovan, Acting Head of Human Resources and Organisational Development

Gail Williams, Interim Head of Legal Services & Monitoring Officer
Cllr David Poole, Leader of the Council
Cllr Barbara Jones, Deputy Leader and Cabinet Member for Finance, Performance
and Governance

Background Papers: -

Cabinet 23/07/13 - Provisional Outturn for 2012/13

Council 26/02/14 - Budget Proposals 2014/15 and Medium-Term Financial Strategy 2014/2017

Cabinet 02/04/14 – Interim Arrangements – Head of Legal Services

Council 25/02/15 – Budget Proposals 2015/16 and Medium-Term Financial Strategy 2015/2018

Council 09/06/15 – Contract Arrangements of Interim Chief Executive

Council 19/07/16 – Internal Investigation of Senior Officers – Additional Financial Provision

Council 22/11/16 – Internal Investigation of Senior Officers – Additional Financial Provision for Legal
Costs

Council 07/03/17 – Internal Investigation of Senior Officers – Additional Financial Provision